



# NASA Procedural Requirements

**COMPLIANCE IS MANDATORY**

**NPR 9050.3**

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## The Antideficiency Act

**Responsible Office: Office of the Chief Financial Officer**

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# Preface

## P.1 Purpose

This NASA Procedural Requirements (NPR) document provides the financial management requirements for the Antideficiency Act.

## P.2 Applicability

This NPR is applicable to NASA Headquarters and NASA Centers, including Component Facilities and Technical and Service Support Centers. This language applies to JPL, other contractors, grant recipients, or parties to agreements only to the extent specified or referenced in the appropriate contracts, grants, or agreements.

## P.3 Authority

- a. 31 U.S.C. § 1301(a), Appropriation Application
- b. 31 U.S.C. §§ 1341-1342, 1517, The Antideficiency Act
- c. 31 U.S.C. §§ 1349(a), 1350, 1518, and 1519, Adverse Personnel Actions and Criminal Penalties
- d. 31 U.S.C. § 1351, Reports on Violation
- e. 31 U.S.C. § 1502(a), Balances Available (the "bona fide needs" statute)
- f. 31 U.S.C. § 1514(a), Administrative Division of Apportionment
- g. 31 U.S.C. § 1517(b), Prohibited Obligations and Expenditures
- h. 31 U.S.C. § 3302(b), Custodians of Money
- i. The National Aeronautics and Space Act of 1958, Public Law 85-568 (Title 42, United States Code (U.S.C.), Chapter 2)
- j. OMB Circular No. A-11, Preparation, Submission, and Execution of the Budget, Part 4, "Instructions on Budget Execution"
- k. NASA Policy Directive (NPD) 9010.2, "Financial Management"

## P.4 Applicable Documents

- a. NPD 9050.3, "Administrative Control of Appropriations and Funds"
- b. NPD 9470.1, "Budget Execution"

## P.5 Measurement/Verification

Quality assurance reviews and analysis of financial and budgetary reports and data submitted through the continuous monitoring program will be used to measure compliance with this NPR.

## **P.6 Cancellation**

None.

/S/

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# Chapter 1. The Antideficiency Act

## 1.1 Overview

1.1.1 All federal funding is subject to the Antideficiency Act (ADA), one of the major laws through which Congress exercises constitutional control over the public funds. Yet, the number of ADA violations reported in the federal government continues to increase. The purpose of this NPR is to set forth NASA requirements with regard to the requirements imposed by the ADA and similar laws and to emphasize the importance of complying with their provisions.

## 1.2 Agency Requirements

1.2.1 All NASA personnel, including contractors that support NASA obligation and expenditure activities, shall comply with the provisions of the ADA and other laws affecting the use of federal funds, regardless of the funding source.

## 1.3 Roles and Responsibilities

1.3.1 Any individual with knowledge of a potential ADA or administrative violation shall notify the Center Chief Financial Officer (CFO), if at the Center level; the Agency Deputy CFO (DCFO), if at the Headquarters level; or the Deputy Inspector General (DIG), if in that office, of any potential fund control violation, either statutory or administrative, immediately upon discovery.

1.3.2 The Center CFO, Agency DCFO, or Deputy IG shall then take action in accordance with the requirements set forth in this NPR.

1.3.3 The roles and responsibilities for ensuring ADA and administrative fund control compliance during the budget execution process are defined in NPR 9470.1.

## 1.4 ADA Requirements

1.4.1 The ADA primarily effects control by imposing constraints. Some of the prohibitions imposed by Congress in the ADA are:

- a. Making or authorizing an expenditure from, or creating or authorizing an obligation under, any appropriation or fund in excess of the amount available in the appropriation or fund unless authorized by law.
- b. Involving the government in any contract or other obligation for the payment of money for any purpose in advance of appropriations made for such purpose, unless the contract or obligation is authorized by law.
- c. Accepting voluntary services for the United States, or employing personal services in excess of that authorized by law, except in cases of emergency involving the safety of human life or the protection of property.
- d. Making obligations or expenditures in excess of an apportionment or reappportionment, or in excess of the amount permitted by agency regulations.

## 1.5 Administrative Requirements

1.5.1 An administrative requirement on funds includes internal policy concerning the use of Federal funds and funding controls below the suballotment level. An administrative control violation does not violate the ADA unless it results in one or more of the situations identified in Section 1.4.

## 1.6 Other Legal Requirements

1.6.1 Several laws other than the ADA also affect the use of Government funds. Additional restrictions include:

- a. Appropriations may be used only for their intended purposes.
- b. Appropriations made for a definite period of time may be used only for payment of expenses properly incurred or to complete contracts properly made and obligated during that time, i.e., there must be a "bona fide need" during the period of availability.
- c. Unless authorized by law, money received from sources other than congressional appropriations must be deposited in the Treasury.

## 1.7 Legal Questions

1.7.1 Any questions regarding the application of the ADA or related laws to a particular transaction should be referred to the Office of Chief Counsel at field Centers; the Office of General Counsel at Headquarters; or the Counsel to the IG, if in that office.

## 1.8 Penalties

1.8.1 Administrative Penalties. The law provides that any officer or employee of the United States who violates the prohibitions of the ADA shall be subject to appropriate administrative discipline. However, administrative discipline may also be appropriate for administrative violations. If a violation is substantiated, one of the following actions must be taken:

- a. Admonishment (administrative violations that do not result in an ADA violation only).
- b. Letter of reprimand for the official personnel record of the officer or employee.
- c. Transfer to another position.
- d. Suspension from duty without pay.
- e. Removal from office.

1.8.2 Criminal Penalties. The law also provides that any officer or employee of the United States who knowingly and willfully violates the prohibitions of the ADA shall be fined not more than \$5,000, imprisoned not more than two years, or both. Criminal penalties will not apply to administrative violations.

## 1.9 Reporting Requirements

1.9.1 All violations of the ADA shall be reported to the President, Congress, and the Comptroller

General, and the names of those responsible for the violations must be included in that report. OMB Circular No. A-11 and the NASA Fund Control Regulations contain the reporting requirements.

1.9.2 Violations of other legal or administrative requirements or controls shall be reported to the Center CFO and Agency DCFO, and to the Office of the IG in cases of possible criminal violations of law, to determine what additional action must be taken.

# Chapter 2. Causes and Prevention of Violations

## 2.1 Overview

2.1.1 Many violations of the Antideficiency Act (ADA) or other administrative fund controls can be prevented. This chapter discusses the most common causes of violations, how to prevent them, and what types of recording errors are not considered violations.

## 2.2 Agency Requirements

2.2.1 NASA shall correct procedural or other causes of ADA or other fund control violations and reduce the risk that a violation may occur in the future.

## 2.3 Roles and Responsibilities

2.3.1 Financial and Program Managers shall ensure that all staff members with resource management responsibilities have knowledge of the requirements and references set forth in this NPR and that they have adequate supervision and training to ensure compliance.

2.3.2 All employees with financial management responsibilities shall ensure that they comply with this NPR and the guidance set forth by their supervisor and that they seek additional guidance and support when unsure of the requirement or what action to take.

## 2.4 Causes of Violations

2.4.1 The most common causes of fund control violations, whether legal, regulatory, or administrative are:

- a. Not following established policy and procedures or internal controls.
- b. Inadequate supervisory involvement or oversight.
- c. A lack of training.

## 2.5 Preventing Violations

2.5.1 To help prevent ADA violations, NASA personnel should be knowledgeable of the requirements in this NPR. Supervisors at all levels should provide their employees with the requisite training and experience in the control and use of funds at levels commensurate with their responsibilities. Furthermore, supervisors should perform oversight and validation checks to ensure that established internal controls are adequate and consistently followed by their employees. Supervisors shall use their internal management control programs to assess periodically, the reliability of internal control systems and employee internal management control accountability.

2.5.2 One of the most effective ways to prevent violations is to perform regular reviews of the status of funds reports. In this regard, commitments should not be added to obligations to determine whether a violation has occurred. However, if the amount of commitments and the amount of obligations (undelivered orders, accrued expenditures unpaid, and accrued expenditures paid)



exceed the total availability of an allotment, allocation, or appropriation, a violation could occur if all or some of the commitments eventually become valid obligations.

2.5.3 Even the most common types of violations can be significantly decreased by proactive measures specifically tailored to address the causes and corrective actions required to prevent their occurrence. NASA employees and contractors with financial management responsibilities should be aware of these common types of violations and take positive actions to avoid their occurrence.

2.5.4 Violations can also be minimized or prevented through effective education and training of personnel and by ensuring that adequate internal controls and standing operating procedures are in place and being followed. This NPR should be used to increase awareness of potential ADA violations among NASA employees and contractors supporting financial management functions.

## **2.6 No Violation - Erroneous Charging or Recording**

2.6.1 A list of legal limitations and restrictions on the use of Federal funds is provided in Chapter 1 of this NPR. However, no violation of the ADA is considered to have occurred when an overobligation or overexpenditure is solely the result of not recording available documents or transactions that increase fund availability, recording an erroneous transaction, or erroneously recording a valid transaction. In each instance, the potential violation status is eliminated by correcting the erroneous transaction, or by posting the omitted transaction. However, such actions should not include the deletion or adjustment of any valid transactions. If after the proper recording of the transactions, an overobligation or overexpenditure remains, a potential violation of the ADA has occurred.

2.6.2 A violation of 31 U.S.C. § 1517 may exist when the amount of funds granted to other activities exceeds the amount of funds available under the applicable authorization of funds received. Sometimes errors occur when recording funds that are distributed or received that have the effect of showing more funds in the allotment, or other administrative subdivision of funds, than are actually available. When such errors occur and the funds are not obligated or expended, there generally is no actual violation. However, making or authorizing an expenditure or obligation of funds cannot occur prior to the availability of funds. A correction made by obtaining additional funds does not eliminate any ADA or administrative violation that may have occurred prior to additional funds being received.

2.6.3 An erroneous recording is the recording of an authorization of funds, obligation, commitment, or expenditure in an incorrect fund or account; or the posting of an amount other than the correct amount for the transaction. An erroneous recording may occur by citing the wrong fund, appropriation, subhead, budget project, or allotment on an obligation and/or expenditure document. Examples may also include the recording of duplicate payments or overpayments and/or related obligations. An omission is the failure to post a properly executed authorization of funds (either received or granted), a purchase request, commitment, an obligation, or expenditure, when the document/transaction is available for recording.

2.6.4 Once incurred, failure to record valid obligations or expenditures in the official accounting records will not preclude or avoid a potential violation. All obligations or expenditures shall be recorded accurately and promptly even if the recording results in a negative amount in the accounting records.

2.6.5 A violation does not exist after an error in the records has been corrected if neither authorizations, obligations nor expenditures exceeded the amount of available funds for the period of time from the initial transaction through the time of correction.

2.6.6 A failure to record a valid obligation or expenditure as of the date incurred does not avoid the occurrence of a violation of the ADA if the recording results in the account balance or other limitation being exceeded. A potential violation must be reported if this occurs. Obtaining additional funds to cover the violation is required. However, obtaining the additional funds does not eliminate the fact that a violation occurred.

## **2.7 Training**

2.7.1 Financial and Program Managers. The Office of the Chief Financial Officer (OCFO) and Center CFOs shall provide appropriate training for its financial managers. The focus of this training shall be Appropriations Law, and it shall include the requirements of fund control, the ADA, and related law; regulatory requirements; and Agency policy, as well as the process and requirements if a violation occurs. This training shall be provided to CFO personnel as soon after employment as practical and shall also be offered to program managers. Refresher training in the basic provisions shall be provided annually to all CFO personnel and offered to other personnel.

2.7.2 Non-Managerial Financial Management Personnel. OCFO and Center CFOs shall provide appropriate training to their staff, as determined by their responsibilities, as soon after employment as practical and shall provide refresher training as needed.

# Chapter 3. Review and Investigation

## 3.1 Overview

3.1.1 When potential ADA or administrative violations are discovered, it is necessary to review the situation and document the facts surrounding it to determine if there is cause to request a formal investigation.

## 3.2 Agency Requirements

3.2.1 When a potential violation of the ADA or administrative policy is detected, it shall be reported to the Center Chief Financial Officer (CFO), if at a Center; the Agency Deputy CFO (DCFO), if at Headquarters; or the Deputy Inspector General (DIG), if in that office. The Center CFO, DCFO, or Deputy IG shall then ensure a preliminary review and, if warranted, a full investigation is conducted, that required reporting requirements are met, and that corrective and follow-up actions are taken as required.

## 3.3 Roles and Responsibilities

3.3.1 Roles and responsibilities for ensuring compliance during budget execution are identified in NPR 9470.1.

3.3.2 The roles and responsibilities for reporting, investigating, and monitoring violations are described in Table 3-1 below.

**Table 3-1, Investigating, Reporting, and Monitoring Violations**

Responsibility	Position
Reports ADA violations to the President, the Congress, and the Comptroller General of the United States.	NASA Administrator
Notifies the Center CFO, if at the Center level; the Agency DCFO, if at the Headquarters level; or the Deputy IG if in that office, of any potential fund control violation, either statutory or administrative, immediately upon discovery.	Any Individual with Knowledge of a Potential Violation

For preliminary reviews:	
Ensures that a preliminary review is conducted in accordance with Section 3.4 of this NPR.	Agency DCFO, Center CFO, or Deputy IG
For formal investigations:	
Appoints a qualified individual from an organization external to the office being investigated who has no vested interest in the outcome to serve as Investigating Officer for a potential violation at Headquarters.	Agency DCFO
Appoints a qualified individual from an organization external to the office being investigated who has no vested interest in the outcome to serve as Investigating Officer for a potential violation at a Center and informs the Agency DCFO of the potential violation.	Center CFO
Appoints a qualified individual from an office external to the NASA OIG who has no vested interest in the outcome to serve as Investigating Officer for a potential violation in the OIG.	NASA Deputy Administrator
Obtains and documents all relevant and specific facts of the case, including identification of the person(s) responsible for the violation as supported by the Investigating Report, and presents the report to the official that requested the investigation.	Investigating Officer
Provides Investigating Report on potential violations at a Center to Agency DCFO.	Center CFO
Provides a summary brief and the Investigating Report to the Agency CFO.	Agency DCFO
Prepares letters for substantiated ADA violations from the Administrator:	Agency CFO
--To the Director of OMB, transmitting a letter to the President.	

<p>--To the Speaker of the House of Representatives and the President of the Senate.</p> <p>-- To the Comptroller General of the Government Accountability Office.</p> <p>These letters will provide the report of violation in accordance with OMB Circular No. A-11.</p>	
Initiates appropriate disciplinary action.	Supervisor of Employee Committing a Violation

## 3.4 Preliminary Review of Potential Violations

3.4.1 When a NASA employee has knowledge or evidence that a violation may have occurred, they shall notify the Center CFO, if at the Center level; the Agency DCFO, if at the Headquarters level; or the Deputy IG if in that office immediately upon discovery. That official shall then appoint an individual to conduct preliminary checks of the applicable business transaction and accounting records to determine whether a potential violation exists.

3.4.2 The preliminary review shall focus on the transactions causing the possible violation and not corrective actions and shall be completed within 30 calendar days of discovery.

3.4.3 Interpretation and Legal Issues. The existence of a violation may depend upon an interpretation of statutory or regulatory constraints imposed by a particular appropriation or account, the proper fiscal year to be charged, or similar issues. In all cases, the reviewer shall obtain the advice of NASA legal counsel during the preliminary review. Inquiries regarding violations taking place at Headquarters should be directed to the Office of the General Counsel, while those occurring at field centers should be directed to the Office of the Chief Counsel at the Center.

3.4.4 Preliminary Review Results. The results of the preliminary review shall be documented in a report which shall include sufficient evidence to support the findings and shall be signed and dated by the individual performing the preliminary review. It shall then be forwarded to the official that requested the

report for approval, who will coordinate with Counsel as appropriate.

3.4.4.1 If it is determined that no violation has occurred, approval of the preliminary review report completes the action required.

3.4.4.2 If it is determined that there is a potential violation, a formal investigation shall be initiated within 15 business days of the approval of the Preliminary Review Report by the official requesting the preliminary review.

## **3.5 Formal Investigation**

3.5.1 Purpose. The formal investigation shall determine the relevant facts and circumstances concerning the potential ADA violation. If a violation is substantiated, the investigator is expected to find what requirements were violated, what caused the violation, what corrective actions are appropriate, what lessons can be learned from the violation and garnered from the investigative process, and who, by name, was responsible for the ADA violation. If no violation is substantiated, the investigator is expected to fully explain the facts supporting the conclusion that no violation occurred and what corrections to the system are necessary to avoid initiating future ADA investigations for the same or similar reasons initiating this investigation.

3.5.2 Appointment of an Investigating Officer. An appointed investigating official shall perform a formal investigation, report findings and, if a violation has occurred, recommend actions to prevent future violations of a similar type and correct the specific adverse funding condition that resulted from the violation.

3.5.3 Training for Investigating Officers.

3.5.3.1 Investigating Officers shall have completed an Appropriations Law course that included the requirements of fund control and the ADA and related law prior to investigating any potential violation.

3.5.3.2 Investigating Officers shall have knowledge of regulatory requirements and Agency policy related to the subject area being investigated.

3.5.3.3 Investigating Officers shall have training or otherwise have demonstrated that they are qualified to interview witnesses; gather evidence; document facts, findings, and recommendations; prepare an Investigating Report; meet timeframes established for the completion of an investigation; and recommend corrective actions.



3.5.4 Developing Conclusions. During the investigative process, the Investigating Officer shall use extreme care in obtaining and documenting all relevant and specific facts of the case. The conclusions in the Investigating Officer's Report, including the identification of the individual or individuals responsible for the violation and what each individual did or failed to do that caused the violation, shall be supported by the facts presented in the report.

### 3.5.5 Corrective Action.

3.5.5.1 When the causes and the individual or individuals responsible for the violation have been determined, NASA managers, Center CFOs, Deputy CFOs, and other appropriate officials shall determine the corrective actions necessary to ensure a violation of a similar nature will not recur.

3.5.5.2 Corrective actions shall be included in both the report of violation and the final summary report. In addition, officials of the NASA office under investigation, working with the investigating officer, shall develop a summary of lessons learned from the specific circumstances of the case. This summary shall not serve to condone, retroactively approve, or financially justify, a violation. All violations must be corrected with the proper funding or the necessary approval from the proper approving authority.

### 3.5.6 Investigation Status and Reports.

3.5.6.1 During the course of an investigation, reports of progress are required monthly to provide the status to the NASA office under investigation and to the Agency DCFO.

3.5.6.2 Investigations of potential violations, including submission of the final summary reports, shall be completed within three months of the date of discovery and the report shall be provided as outlined in Table 3-1.

### 3.5.7 Substantiated Violations.

3.5.7.1 When a violation has occurred, it shall be reported in accordance with Table 3-1 and, if an ADA violation, in accordance with OMB Circular No. A-11, Section 145. Appropriate disciplinary action will be taken in accordance with Section 1.8 of this NPR.

# Appendix A. Definitions

**A.1 Agency Limitations.** Any limitation placed upon delegated budget authority with NASA with regard to time, purpose, and amount.

**A.2 Administrative Division or Subdivision of Funds.** The formal administrative distribution/delegation of budget authority below the apportionment level.

**A.3 Allotment and Suballotment.** The formal administrative division and subdivision of budget authority delegated to incur obligations within a specific amount pursuant to OMB apportionment or reapportionment action or other statutory authority making funds available for obligation at the mission (allotment) and theme (suballotment) levels. Making or authorizing an overobligation or overexpenditure of an allotment or suballotment is a violation of the ADA, which must be reported.

**A.4 Apportionment/Reapportionment.** A distribution or change to distribution of amounts available for obligation in an appropriation or fund account into amounts available for specified time periods, program, activities, projects, objects, or any combinations of these. Amounts must be apportioned by OMB prior to obligation. The apportioned amount limits the obligations that may be incurred. An apportionment may be further subdivided by an agency into allotments, suballotments, and allocations. Overobligation or overexpenditure of an apportionment is a violation of the ADA, which must be reported.

**A.5 Appropriation.** A provision of law authorizing the expenditure of funds for a given purpose, usually, but not always, in an appropriations act.

**A.6 Budget Authority.** The authority provided by law to incur financial obligations that will result in outlays. Specific forms of budget authority include appropriations, borrowing authority, contract authority, and spending authority from offsetting collections.

**A.7 Contract.** A mutually binding legal relationship obligating the seller to furnish the supplies or services and the buyer to pay for them. It includes all types of commitments that obligate the Government to an expenditure of appropriated funds. Contracts include (but are not limited to) awards; job orders or task letters issued under basic ordering agreements; letter contracts; purchase orders, under which the contract becomes effective by written acceptance or performance; and bilateral contract modifications. Contracts do not include grants and cooperative agreements covered by 31 U.S.C. 6301, et seq.

**A.8 Expenditure.** Amounts paid by cash or cash equivalent (such as checks and electronic transfers) to liquidate government obligations.

**A.9 Obligation.** Any act that legally binds the Government to make an outlay or expenditure of funds immediately or in the future; a "bona fide" need must exist and funds must be available, apportioned, and distributed before creating an obligation for it to be legal.